

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROLANDO PADILLA

Plaintiff,

v.

JEREMY DYE AND
BIG G EXPRESS, INC.

Defendants.

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CIVIL ACTION NO. 4:20-cv-3595

DEFENDANTS JEREMY DYE AND BIG G EXPRESS, INC.’S NOTICE OF REMOVAL

BACKGROUND

1. This is a personal injury action arising from a motor vehicle accident that occurred in Harris County, Texas on December 10, 2019.¹ Plaintiff Rolando Padilla claims he suffered personal injuries as a result of the alleged negligence of Defendants.

STATE COURT ACTION

2. Plaintiff Rolando Padilla filed suit against Defendants Jeremy Dye and Big G Express, Inc. on August 31, 2020. The case was filed in the 152nd Judicial District Court of Harris County, Texas under cause number 2020-52402, case style *Rolando Padilla v. Jeremy Dye and Big G Express, Inc.*²

JURISDICTION

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332(a) because this is a civil action in which the amount in controversy exceeds \$75,000,

¹ See Ex. C (Plaintiff’s Original Petition).

² *Id.*

exclusive of interests and costs, and no defendant is domiciled in the same state as the plaintiff. Furthermore, under 28 U.S.C. § 1441(b)(2), no defendant is a citizen of Texas where this action was brought.

4. According to *Plaintiff's Original Petition*, Rolando Padilla is a resident of Texas and seeks damages in excess of \$100,000.³

5. Defendant Jeremy Dye is a resident of Tennessee.⁴ Defendant Big G Express, Inc. is both incorporated in and has its principal place of business in Tennessee.⁵

6. For these reasons, the amount-in-controversy and diversity requirements of 28 U.S.C. § 1332(a) are met as to all proper parties, and the Court has original jurisdiction over this action.

TIMELINESS

7. After Plaintiff filed his original petition on August 31, 2020, the Harris County district court issued a citation to Jeremy Dye and Big G Express, Inc. on September 2, 2020.⁶ Jeremy Dye was served on or around September 21, 2020. Big G Express was served on or around October 1, 2020. Under 28 U.S.C. § 1446(b)(1), this Notice of Removal is therefore timely, and under 28 U.S.C. § 1446(b)(A) no consent of any other party is required.

CONDITIONS PRECEDENT

8. Defendants have tendered the required filing fee to the Clerk of the United States District Court for the Southern District of Texas, Houston Division, along with this Notice of Removal. Defendants will promptly file a copy of this Notice of Removal with the Harris County Clerk and will provide notice to Plaintiff through their counsel of record.

³ See *id.* ¶ 7.1.

⁴ *Id.* ¶ 2.2.

⁵ *Id.* ¶ 2.3.

⁶ See Ex. D and Ex. E (Plaintiff's Service of Process on Defendant Jeremy Dye and Big G Express, Inc.).

9. Copies of all executed process, pleadings, and orders filed in state court, as well as the docket sheet, an index of matters being filed, and list of counsel of record accompany this notice.⁷

CONDITIONAL REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

10. If Plaintiff contests this removal, Big G Express, Inc. and Jeremy Dye requests (1) a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter; (2) the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal, as well as provide additional briefing on these issues; and (3) leave to conduct limited discovery related to those matters.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ *David Helmey*

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ATTORNEYS FOR DEFENDANTS

JEREMY DYE AND

BIG G EXPRESS, INC.

⁷ See 28 U.S.C. § 1446; S.D. Tex. Civ. R. 81. See also, Ex. A (Index), Ex. B (Harris County Docket Sheet), Ex. C (Plaintiff's Original Petition), Ex. D (Proof of Service Citation for Jeremy Dye), Ex. E (Proof of Service Citation for Big G Express, Inc.), and Ex. F (List of Counsel of Record).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record through the Court's ECF system on October 20, 2020.

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/s/ David Helmey
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